

EXHIBIT 5

1
2 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

3 -----x
KATHRYN TOWNSEND GRIFFIN,
4 HELEN MCDONALD, and THE ESTATE
OF CHERRIGALE TOWNSEND,

5
-against-

6 Civil Action No.:
1:17-CV-05221-RJS/GRIFFIN

7
8 EDWARD CHRISTOPHER SHEERAN,
p/k/a ED SHEERAN, ATLANTIC
9 RECORDING CORPORATION, d/b/a
ATLANTIC RECORDS, SONY/ATV
10 MUSIC PUBLISHING LLC and
WARNER MUSIC GROUP
11 CORPORATION, d/b/a ASYLUM
RECORDS,

12 Defendants.

13 -----x

14 April 24, 2018
15 3:00 p.m.

16
17 Deposition of HELEN C. MCDONALD, taken by
18 Defendants, pursuant to Notice, held at the law
19 offices of Pryor Cashman, LLP, 7 Times Square, New
20 York, New York, before Judith Castore, a Certified
21 Livenote Reporter and Notary Public of the State of
22 New York.

A P P E A R A N C E S

ON BEHALF OF PLAINTIFFS

FRANK & RICE, P.A.

325 West Park Avenue

Tallahassee, Florida 32301

850-591-2461

BY: KEISHA D. RICE, ESQ.

keisha@frankandrice.com

ON BEHALF OF DEFENDANTS

PRYOR CASHMAN, LLP

7 Times Square

New York, New York 10036

212-421-4100

BY: ILENE S. FARKAS, ESQ.

ifarkas@pryorcashman.com

ANDREW M. GOLDSMITH, ESQ.

agoldsmith@pryorcashman.com

ALSO PRESENT:

KATHRYN TOWNSEND GRIFFIN GRINAN, Plaintiff

1
2 IT IS HEREBY STIPULATED AND AGREED, by and
3 among counsel for the respective parties hereto,
4 that the filing, sealing and certification of the
5 within deposition shall be and the same are hereby
6 waived.

7 IT IS FURTHER STIPULATED AND AGREED that all
8 objections, except to the form of the question,
9 shall be reserved to the time of trial;

10 IT IS FURTHER STIPULATED AND AGREED that the
11 within deposition may be signed before any Notary
12 Public with the same force and effect as if signed
13 and sworn to before the court.

14 * * * *

1 MCDONALD

2 before 9/11 back to California.

3 Q So your moving to California
4 was not related to 9/11?

5 A No.

6 Q Who caused you to move back?

7 A I got divorced and I was
8 tired of the snow and the ice and I
9 just said, it's a good time to go back.

10 Q Fair enough.

11 Do you have any background in
12 music?

13 A No.

14 Q Do you --

15 A Can't even sing. Can't even
16 carry a note. Can't even -- I can see
17 a note, but I can't read it.

18 Q Okay.

19 Well, that just removed
20 several questions. Thank you.

21 I think we mentioned this,
22 but your brother was Ed Townsend,
23 correct?

24 A Yes.

25 Q He was a songwriter?

1

MCDONALD

2

A Yes.

3

Q And he was also a singer?

4

A Yes.

5

Q Did he play any instruments?

6

A Played the piano.

7

Q Anything else?

8

A I don't know of him playing

9

anything else other than the piano.

10

Q Do you know if Ed read music?

11

A Yes.

12

Q Do you know if he had formal

13

training in music?

14

A My mother taught him piano.

15

Q Anything else.

16

A As far as music is concerned?

17

Q As far as formal training,

18

yeah.

19

A All -- that's all I know is

20

that he got his start through her. Now

21

how much he improved on it, I don't

22

know.

23

Q Did he ever attend any type

24

of school for music?

25

A I do not know that.

1 MCDONALD

2 Q What was the age difference
3 between you and Ed?

4 A Ed was born in '77 and I was
5 born in -- no, Ed was born in '29, and
6 I was born in '37, so...

7 Q About eight years?

8 A '29 and '37. Seven from nine
9 is two, so about 12 years.

10 Q Okay.

11 Maybe I'm doing the math
12 wrong.

13 MS. RICE: 29 and 37 is 8.

14 A No, that doesn't seem right.

15 Q It's okay.

16 I have an approximation. We
17 can look up it.

18 A He was born in 1929.

19 Q Okay.

20 A And I was born in 1937.

21 Q Do you know who Ed's
22 influences were musically?

23 A My mother.

24 Q Anyone else?

25 A Not that I know of.

1 MCDONALD

2 Q Do you know what type of
3 music Ed liked to listen to?

4 A All kinds.

5 Q Can you give me some
6 examples?

7 A He loved gospel. He loved
8 rhythm and blues. He loved classical
9 music. He liked all form of music. He
10 liked country western. He liked
11 everything.

12 Q Were there certain artists or
13 performers that he particularly liked,
14 did he have favorites?

15 A I'm not sure.

16 Q So no one stands out as being
17 someone that he really looked up to?

18 A No.

19 Q Are you familiar with Curtis
20 Mayfield?

21 A Yes.

22 Q Do you know if Curtis
23 Mayfield was an influence of Ed?

24 A I think. I don't want to get
25 confused, because I think Curtis

1 MCDONALD

2 Mayfield was part of a group that he
3 produced. It seems like back in the
4 back of my mind that's how that was. I
5 think Curtis Mayfield may have been a
6 lot younger than Ed.

7 Q So you think he might have
8 produced some of Curtis Mayfield's
9 songs?

10 A Yes.

11 Q Do you know if he, as a
12 general matter, listened to Curtis
13 Mayfield's recordings?

14 A Did he ever listen to him?
15 Yes.

16 Q How about -- are you familiar
17 with Buddy Holly?

18 A Yes.

19 Q Do you know if Ed listened to
20 Buddy Holly?

21 A I'm almost sure did he.

22 Q Are you familiar with the
23 group called the Fleetwoods?

24 A I don't remember the
25 Fleetwoods.

1 MCDONALD

2 Q Are you familiar with Elton

3 John?

4 A Yes.

5 Q Do you know if Ed listened to

6 Elton John?

7 A Yes.

8 Q How about Bee Gees?

9 A Oh, yes.

10 Q Okay.

11 Are you familiar with an

12 artist named Donovan?

13 A Donovan? No.

14 Q Neither am I, it's okay.

15 Are you familiar with a group

16 called the Stone Ponies?

17 A No.

18 Q Are you familiar with the

19 group called the Ventures?

20 A The Ventures, no.

21 Q The Rolling Stones?

22 A Yes.

23 Q Do you know if Ed listened to

24 the Rolling Stones?

25 A I'm sure he did.

1 MCDONALD

2 Q The Lovin' Spoonful?

3 A I don't know of them.

4 Q Peter and Gordon?

5 A Peter and --

6 Q Gordon.

7 A I don't remember. The name
8 doesn't ring a bell.

9 Q You're familiar with the
10 Beach Boys?

11 A Yes.

12 Q Do you know if Ed listened to
13 the Beach Boys?

14 A Yes.

15 Q How about the group named
16 Chad and Jeremy, are you familiar with
17 them?

18 A No.

19 Q Are you familiar with Van
20 Morrison?

21 A Doesn't ring a bell.

22 Q How about, last one, Billy
23 Fury?

24 A Billy Fury?

25 Q Yes. F-U-R-Y.

1 MCDONALD

2 A No, I am not familiar with
3 him.

4 Q You're family with the song
5 Let's Get It On, correct?

6 A Yes.

7 Q And Ed co-wrote that song
8 with Marvin Gay?

9 A He did not cowrite it with
10 Marvin Gay, Ed wrote the song.

11 Q Ed wrote the song?

12 A Yes. He wrote it -- in fact,
13 he wrote it at my house.

14 Q When was that?

15 A In the '70s.

16 Q Around 1973, does that sound
17 correct?

18 A It could have been.

19 Q So do you have any knowledge
20 about the process by which Ed created
21 the song?

22 A All I know is that he was
23 sitting at the piano, I guess he was
24 writing it at the time. He came in my
25 room. He woke me up. He was staying

1 MCDONALD

2 with me. He had just come from
3 New York, so he was at my house. And
4 he came in my room and woke me up and
5 said, come in here, I want you to hear
6 something. And he played Let's Get It
7 On. And he hadn't quite finished it.
8 And then he played another song that
9 was recorded on the album, If I Should
10 Die Tonight.

11 Q You said he played the song
12 for you, what --

13 A On the piano.

14 Q Did he sing, as well?

15 A Yes.

16 Q And did he sing the lyrics or
17 close to the lyrics of the final song?

18 A Yes.

19 Q And Marvin Gay ultimately
20 recorded the song, correct?

21 A He did.

22 Q How did that come about?

23 A Ed had called me at work the
24 next day after he played the song for
25 me and asked me if I would cook dinner,